United Nations CRC/C/SR.1958

Convention on the Rights of the Child

Distr.: General
27 January 2015

Original: English

Committee on the Rights of the Child
Sixty-eighth session

Summary record of the 1958th (Chamber B) meeting
Held at the Palais Wilson, Geneva, on Wednesday, 21 January 2015, at 10 a.m.

Chairperson: Ms. Wijemanne (Vice-Chairperson)

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties (*continued*)

Combined second to fourth periodic reports of Iraq (CRC/C/IRQ/2-4; CRC/C/IRQ/Q/2-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Iraq took places at the Committee table.*

2. **Mr. Al-Bayati** (Iraq) said that his country attached great importance to the rights of the child. Various government bodies and civil society organizations had been involved in drafting the State party report. The National Centre for Human Rights had held a number of workshops for civil servants and members of civil society with a view to raising awareness of the Convention on the Rights of the Child.

3. His country was facing significant challenges as a result of actions by the Islamic State in Iraq and the Levant (ISIS). Approximately 2.5 million Iraqis, 30 per cent of whom were children, had been displaced as a result of ISIS military operations and terrorist attacks and hundreds of children had become lost or separated from their parents. Girls, in particular, were being kidnapped, exploited and used as sex slaves. The Government needed to formulate an urgent action plan to provide housing, education and health services to displaced children. Newborns in camps for displaced persons were at particular risk due to the severe cold and lack of sanitation.

4. Nevertheless, Iraq had managed to slightly reduce poverty, increase enrolment in primary education and reduce the infant mortality rate. It had established a family court, courts specializing in domestic violence and a family protection programme, in addition to mechanisms to address complaints related to human rights and, also, a children's helpline in the Kurdistan region. Moreover, a number of laws had been adopted, including laws on trafficking in persons, social protection and the eradication of illiteracy.

5. **Ms. Winter** (Coordinator, Country Task Force) said that the Committee was aware of the significant challenges faced by the State party, but would address the needs of Iraqi children, as the Government had a duty to assist them regardless of the circumstances.

6. The Committee had a number of concerns, including: increased corruption; obstacles to the work of NGOs; discrimination and honour crimes against girls; trafficking in persons; the lack of resources specifically allocated to children in the budget; the definition of the child; the administration of juvenile justice; and terrorist attacks against schools and hospitals. In addition, it had concerns surrounding the right to identity and legislation requiring girls to obtain their fathers' permission to travel, in addition to the sexual exploitation and abuse of girls and boys. It was concerned that the incidence of female genital mutilation, having decreased, appeared to be increasing again. Moreover, many children were deprived of a family environment, many were imprisoned with their parents and many suffered from drug and substance abuse or mental health issues as a result of the trauma that they had experienced. Lastly, the poverty in refugees camps was leading to forced marriages, malnutrition and the abduction, trafficking and sale of children.

7. **Mr. Kotrane** (Country Task Force) said that the Committee welcomed the progress achieved by the State party despite the difficult circumstances. A number of constitutional and legislative reforms had been introduced, and the new Iraqi Constitution of 2005 included provisions on children. He asked whether there had been any developments with respect to the various bills under consideration relating to child protection, the Children's Parliament and the Child Welfare Commission.

8. The Committee also welcomed the ratification by the State party of both the Optional Protocol to the Convention on the Rights of the Child on the involvement of

children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as a number of international human rights instruments. Was ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure under consideration?

9. Turning to the concerns of the Committee, he said that accountability and the rule of law needed to be strengthened, especially in view of the escalation of violence and the growing number of victims, including children. While the Government was taking steps to improve the security situation, its initiatives had sometimes overlooked the accountability of institutions, which had led to a certain degree of impunity. Law enforcement officials must ensure the rule of law while respecting human rights. What measures was the Government taking to strengthen the judiciary? Were officials being given training in human rights? What steps was the Government taking to address racism, gender-based discrimination and hate speech, and what resources were being allocated to those issues?

10. The Committee welcomed the fact that the State party had withdrawn its reservation to article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, with the effect that Iraqi women could transmit their nationality to their children. However, Iraq, unlike most countries in the region, had entered a reservation to article 14 of the Convention on the Rights of the Child with respect to freedom of thought, conscience and religion. The Iraqi Constitution of 2005 included no recognition of the fact that the Convention on the Rights of the Child had precedence over national legislation and was directly applicable in court. With respect to the definition of the child, Iraqi law was fully consistent with the Convention; however, the Ja'fari personal status bill established the minimum age of marriage as 9 years and should be withdrawn. As to the best interest of the child, the information provided in the State party's report was insufficient. The report stated that nothing prevented judges from considering the viewpoint of the child before ruling on a particular case; however, the Committee would like to know what steps were being taken to ensure that judges would take children's viewpoints into consideration. In that regard, the Committee had adopted an interpretation of article 12 in its general comment No. 12.

11. The Committee was also concerned about the increase in the number of honour crimes, which were a violation of the right to life. What measures were being taken to put an end to such crimes, as well as to early marriage, temporary marriage and female genital mutilation? Lastly, in view of the fact that while the Iraqi Nationality Act No. 26 of 2006 allowed men to transmit their nationality to their children born outside Iraq women could not do so unless their children's father was unknown or stateless, the State party should amend the Act to ensure equality between men and women.

12. **Ms. Al-Shehail** (Country Task Force) said she would welcome clarification on the general measures taken to implement the Convention, particularly the budget allocated to children. The Committee had noted that there was limited spending on primary education and a lack of emphasis on education, which led tens of thousands of students to drop out of school. She wished to know whether the Government was planning to take measures to tackle that problem.

13. Noting that the Ministry of Human Rights was responsible for the dissemination of the Convention, she said that awareness of the Convention must be raised throughout the country, not only through workshops, but through all modern media and particularly in schools. She wished to know whether special training programmes on the rights of the child were provided to those who worked with children in health and education. What sort of support was provided to NGOs, and what steps was the Government taking to address the issue of early marriage?

14. **Ms. Parsi** (Country Task Force) said that while the Committee recognized the difficulties faced by the Government in implementing children's rights under the prevailing

conditions, it nevertheless drew the delegation's attention to the need to eradicate harmful practices prohibited by the Convention.

15. Until honour killings were prohibited by law, they would continue. In the absence of a legal protective mechanism, children fearing honour crimes were forced to flee their homes to places where they lacked identification as well as access to education and health services. How was the State party assisting such children, and how was it tackling the cultural causes of honour crimes?

16. What steps was the State party taking to eradicate the practice of female genital mutilation?

17. While the State party had asserted that the practice of early marriage was dwindling, the Committee had information to the contrary. Early marriages were even being contracted for short periods, without any obligations imposed on the husband. What was the status of the so-called Ja'fari personal status bill, which would lower the age of marriage and legalize marital rape? What awareness-raising efforts were under way to sensitize the population and the judiciary to those issues?

18. **The Chairperson**, speaking as a member of the Committee, asked whether the State party would consider enhancing protection for hospitals and schools, which were often targets of attacks. She inquired whether efforts were being made to improve the rate of birth registration in rural areas, and to eliminate the practice of corporal punishment.

19. **Ms. Winter** said that she had been told by judges working in Iraq that most judges there took the stance, for religious reasons, that the age of criminal responsibility was 7 years, even though by law it was 9 years in the central governorates and 11 years in the Kurdistan region. Did the Government plan to educate judges about the issue?

20. What was being done to counter the practice, widespread in refugee camps, of marrying off daughters at the age of 9 years in order to avoid having to feed them?

21. **Mr. Gurán** requested information about the composition and work of the High Commission for Human Rights and the Independent Board of Human Rights in the Kurdistan Region. Those bodies had been established in 2008 and 2010 respectively, yet the Committee had not received any information about their activities. How many complaints had they received, and how many cases had they resolved? It was important to bring those bodies fully into line with the Paris Principles so that they could serve as a basis for a future national human rights institution.

22. He asked whether any steps had been taken to promote awareness of the Committee's general comment No. 12, on the right of the child to be heard, and general comment No. 14, on the right of the child to have his or her best interests taken as a primary consideration. Did the State party plan to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure?

23. **Ms. Oviedo Fierro** asked what avenues existed for children to participate in civic life and express their views on issues that concerned them, including in the context of legal proceedings. She asked whether all children had opportunities to use the Internet to access information, and whether measures were in place to protect children from those who might wish to harm them via the Internet.

24. **The Chairperson**, speaking as a member of the Committee, asked what efforts had been made to address the discrimination against girls that pervaded many aspects of society and even the law.

The meeting was suspended at 11.10 a.m. and resumed at 11.40 a.m.

25. **Mr. Al-Bayati** (Iraq) said that the High Commission for Human Rights had been established after consultations with relevant actors and represented all sectors of society. It had thus far been unable to elect a president, even though the Parliament had recently instructed it to do so; the presidency rotated monthly among its members. He hoped that the High Commission would soon be able to commence work.

26. **Ms. Al-Nuaimi** (Iraq), referring to issues raised earlier, said that the Ministry of the Interior had established a number of directorates to tackle specific issues. One such directorate was responsible for the protection of institutions, including schools and hospitals.

27. In addition, a special police directorate had been established in each governorate to protect family members from domestic violence. A domestic violence bill currently before the Parliament aimed to criminalize the practice and require reparations for victims. Other measures envisioned included special domestic violence courts and offices providing legal advice in connection with marital relations and domestic and other family violence.

28. Another directorate, established to support police work, provided social and awareness-raising services in connection with domestic violence, juvenile delinquency, begging, indecent assault and rape. It also monitored trafficking in persons and narcotics and kept an eye on companies suspected of financing terrorism. The directorate enjoyed the respect and trust of local police.

29. Her Government strove to ensure that arrests of children were made in accordance with the law. In order to make participation in armed conflict less attractive for children, efforts were being made to improve family incomes, keep children in school and increase awareness of the value of peace. Steps were also being taken to address the issue of children living on the street.

30. **Mr. Al-Jizani** (Iraq) said that institutions existed in many parts of the country to care for children who had been orphaned or otherwise deprived of a family setting. Such institutions, in cooperation with other government entities and NGOs, secured names and citizenship for children of unknown parentage, protected them from discrimination and harm, and strove to ensure their integration into society. Children living in such institutions were enrolled in regular schools and received help with their homework. Sports and other leisure activities were organized, and vocational training was provided for children aged 16 years and over with little schooling.

31. A family reintegration programme was in place to return children to their families of origin.

32. **Mr. Al-Mulahwaish** (Iraq) said that the Ministry of Human Rights conducted human rights awareness training for its own employees, for workers in other government entities dealing with children's issues and for schoolchildren. Children who were at least 12 years old could be consulted in legal cases affecting them.

33. **Mr. Kotrane** (Country Task Force), referring to the difficulties encountered in appointing presidents for the human rights institutions of the central governorates and the Kurdistan region, asked whether the Government intended to ensure that those bodies were truly independent and not subject to political pressures or allegiances. Referring to paragraph 14 of the report, he asked whether an ombudsperson for children had been appointed and, if so, whether children could submit complaints to that official. Citing the Committee's general comment No. 12, he stressed that children's right to be heard in all legal cases affecting them must be enshrined in law; judges must not have discretion in the matter.

34. **Mr. Al-Bayati** (Iraq) said that the reference to problems in respect of the Human Rights Commission did not mean that the Commission was not functioning. In fact, it had

already investigated and drawn up a number of reports on human rights violations, which had been submitted to the relevant United Nations bodies. His country did not, however, have a special commission on the rights of the child. All matters pertaining to the rights of the child were dealt with by a special division in the Ministry of Human Rights and by a special authority in the Kurdish region.

35. **Mr. Al Sayed Noor** (Iraq) drew attention to the information on nationality contained in paragraphs 22 and 23 of the State party report. The Ministry of the Interior verified and confirmed the nationality of an Iraqi woman who gave birth to a child abroad so that she could transmit her nationality to her offspring. Some 96 per cent of births in the country were registered. Failure to register the remaining 4 per cent was due to the non-registration of some marriages. The Personal Status Code dealt with the situation of women abandoned by their husbands. International organizations and the authorities were endeavouring to provide poor families with free legal assistance in order to help them prove marriage and obtain citizenship.

36. The Internet was currently available everywhere and was widely used in Iraq. The Ministry of Communication was responsible for regulating its distribution. When regulating the use of the Internet by children, their right to freedom of information must be balanced against the need to protect them from harm. Since it was difficult to prevent their access to certain harmful websites by technological means, the Government relied more on families and schools to educate children on beneficial ways of using the Internet which broadened their knowledge and enhanced their intellectual capacity.

37. The courts had discretion to grant exemptions from the legal minimum age for marriage in some circumstances, subject to the consent of the girl and her parents or legal guardian. Since breaches of the law did occur in some areas of the country, a number of human rights organizations and authorities had proposed the introduction of penalties which would also apply to clergy who officiated at marriages of persons under the age of 15 years.

38. **The Chairperson** said that it would be desirable for the courts to abide by the minimum age limit for marriage, as that limit had been established on the basis of medical evidence with regard to young people's physical and mental capacity.

39. **Ms. Oviedo Fierro** enquired as to the type of penalties which would be incurred in the case of underage marriage, and as to measures to ensure that the courts applied the law correctly.

40. **Mr. Kotrane** wished to know if there were any plans to revise the Ja'fari personal status bill and to ensure that courts which had permitted underage marriage did not enjoy impunity.

41. **Ms. Winter** requested data on the number of cases in which courts had been bribed to permit underage marriage. How many clerics had been punished for officiating at marriages of minors?

42. **Mr. Al Sayed Noor** (Iraq) said that although efforts had been made to tackle the problem of underage marriages from various angles, the custom prevailed in some regions. The law had introduced penalties for the marriage of girls under the age of 15 years and further amendments to the personal status laws had been drafted. There was no evidence that any courts had been bribed to permit early marriages. The former Government had repealed the Ja'fari bill and the current Government had no intention of reintroducing it.

43. The provisions of the Convention on the Rights of the Child and the Optional Protocols thereto had been incorporated into domestic legislation and a number of court decisions had been based on the Convention. In addition, a committee had been set up to ensure the compliance of all laws with the international conventions to which Iraq had acceded. A domestic institution would have to be established in order to conduct the inquiry

procedure required under Part III of the Optional Protocol on a communications procedure, as his country was still in a transitional stage of institution-building. The Ministry of the Interior had established a directorate responsible for the protection of the family. A bill on domestic violence and a number of other bills designed to combat violence against children had been submitted to the Parliament. A human rights court had also been established.

44. He shared the Committee's concerns regarding honour crimes and the marriage of a rape victim to the rapist. However, serious efforts were being made to amend the relevant legislation, although it was uncertain whether society was fully prepared to protect rape victims. Attitudes and cultural perceptions would first need to be changed, in order to create awareness that rape was a serious crime.

45. The corporal punishment of children was strictly prohibited. The Ministry of Human Rights and the Ministry of Education were responsible for taking disciplinary measures against anyone who subjected children to corporal punishment.

46. **Mr. Mezmur** asked whether the State party considered it necessary to amend its welfare legislation in view of the increasing number of children who were deprived of a family environment. Did polygamy and repudiation have a negative impact on children's right to a family environment? How were custody issues resolved? Were there any plans to expand foster care for children without a family environment in rural areas? He invited the delegation to supply statistics on the number of children in foster care. What steps were taken to ascertain that children living in orphanages really were orphans who had no family? What measures were taken to review their cases and reunite them with their family if it was found?

47. What efforts were made to arrange alternative care for, or to find the relatives of, children who were in prison with one of their parents, when that parent was executed?

48. **Ms. Oviedo Fierro** asked the delegation to describe endeavours to change cultural attitudes to child marriage, domestic violence, violence against children and sexual abuse.

49. **Ms. Winter** asked if there was any possibility of improving conditions in prisons in order to prevent children incarcerated with their mothers from contracting serious diseases, such as leprosy, during detention. Was there any possibility of improving the deplorable situation of child asylum seekers or refugees? What measures were being taken to assist children in street situations, provide them with schooling and implement legislation banning child labour? What protection did the law afford to child victims or witnesses of crime? Would it be possible to pass one law on such protection for the whole country, including the Kurdistan region? What steps were being taken to counter discrimination against children and young people belonging to minority groups in the spheres of education, employment, housing and health care?

50. **Mr. Kotrane** said he wished to know what was being done to spread the culture of human rights in order to combat the ideological brainwashing and indoctrination of children by groups such as ISIS. What measures were adopted to guarantee that the basic needs of child refugees, returnees and internally displaced children were met, that they were protected against sexual exploitation and trafficking and that they could obtain access to education, nutrition and health services?

51. The age of criminal responsibility must be raised to 13 years. Did the law make specific provision for the protection of children in police custody or pretrial detention? What were the maximum periods that young people could be kept in such custody or detention? He expressed concern that capital punishment could be imposed on young people under the age of 18 years if their actual age was not known.

52. **The Chairperson** asked what steps were being taken to curb preventable diseases and chronic malnutrition among children, to reduce maternal mortality and to deal with drug and substance abuse among young people.

53. **Ms. Al-Shehail** said she would like to know when draft legislation related to the needs of children living with disability and children with special needs would come into force. Would it be possible to set up an independent committee to identify the reasons why those children lacked access to education? Lastly, she wished to know why there were gaps in the provision of assistance to such children.

The meeting rose at 1 p.m.